UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,929	10/22/2003	Scott Campbell	PA2587US	1610

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

EXAMINER
DEODHAR, OMKAR A

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 November 2008*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24 and 26-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24, 26-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Final Rejection

Response to Amendment & Arguments

Independent claims 1, 19, 24 & 30 have been amended to recite that the current location is after the starting line but prior to the finish line for a course being traversed in the video game session. A color is determined for a displayed path marker based upon an elapsed time from the starting point to a current location of a player character in a video game session.

The dependent claims appear to have been amended to clarify displayed path marker colors are determined, retrieved graphical data is associated with previous runs & that the processor executes instructions. These limitations are taught by the art in the Section 103 rejection below.

Claim 21 now recites a second color is determined. Yoshida explicitly teaches multiple colors such as yellow & red. See Yoshida Col. 11. Lines 60-67 & Col. 12. Lines 1-4.

Applicant argues that Mott's current time is not the same as the claimed elapsed time. In light of the amendment, the instant Examiner concurs & Applicant's arguments in this respect are moot in view of the new grounds of rejection.

Jen (US 7,214,133) teaches the claimed "wherein the current location is after the starting line but prior to the finish line for a course being traversed in the current video game session". See Jen Col. 8. Lines 41-67, Col. 9. Lines 1-5 & 59-60. A user selects a recorded race to compete with. The game console configures the game using the same

settings contained in the recorded race. The game displays both vehicles (i.e., the

vehicle following the recorded race data & the vehicle controlled by the game console

user) moving through the course. Recorded data may be portions of the race as

opposed to the entire race. This teaches a portion of the race after a starting point but

prior to crossing the finish line. It would have been obvious to one of ordinary skill in the

art at the time of Applicant's invention to show this partial race data on the display

screen in Mott's system (Figures 4/5). Note that such data would merely compliment

data indicating previous lap time & would by no means detract from Mott's game. This

modification is viewed as a substitution of known elements (providing previous race

data indicating intermediate race timings) with the predictable results of providing

players more data so that they can beat a previous best time. Such modification is also

well within the level of ordinary skill in the art. This is incorporated into the rejection

below.

Consequently, all claims are respectfully rejected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
       obviousness or nonobviousness.

Claims 1-24 and 26-30 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Yoshida et al. (US 6,652,376 B1) in view of Mott et al. (US

5,269,687), in yet further view of Jen (US 7,214,133).

Regarding claims 1,2,12,19-22, 24 and 30, Yoshida discloses a method, system

and computer-readable storage medium having embodied thereon a program for

displaying a graphical path in a video game, comprising retrieving graphical path data

associated with a previous run, displaying the graphical path data as a visual string of

path markers, and determining a color for a displayed path marker of the visual string of

path markers based upon a comparison of a player's current speed and a reference

speed at a given point.

Specifically, Yoshida discloses retrieving graphical path data associated with a

previous run in that the video game system displays a reference path travel line

established by a previous run (col. 11, lines 37-41), wherein the reference path may be

displayed as a visual string of path markers (Fig. 9, 10,14,15,19). A color is determined

for a displayed path marker based upon a player's current travel speed relative to the

reference, i.e. ideal, travel speed that was established on a previous run (col. 10, lines

20- 42). For instance, if it is determined that the player's current travel speed exceeds

the ideal travel speed, the graphical path markers change colors (e.g. turn red) in order

to indicate to the player whether they should apply the brakes to decrease their current

travel speed (col. 12, lines 4-33). The reference speeds are recorded for each point, i.e.

block, in the path (col. 2,lines 48-53).

Yoshida does not specifically disclose determining a color for a displayed path

marker of the visual string of path markers based upon an elapsed time from a starting

point to a current location of a player character of a current video game session and an

elapsed time from a starting point to the current location of the player character

associated with the displayed path marker from the previous run. However, it is well

known in racing-type video games to provide a player with a visual indication of a

current lap time in comparison with a previous lap time, as disclosed by Mott (Fig. 5,

Current Lap **192**, Previous Best Lap **194**, Lap Time **162**; col. 5, lines 60-67). That is,

Mott displays an elapsed time from a starting point to a current location as the player

approaches the finish line in the form of a Current Lap time display (Fig. 5), which

measures the amount of time that has elapsed from the beginning of the race until the

player reaches the finish line point. Mott visually displays a comparison of a current

elapsed time to a previously recorded elapsed time from a starting point to a finish line

location of a player in the Previous Best Lap time display (Fig. 5). Additionally, Mott

discloses the use of a ghost car **150** (Fig. 3,4), i.e. graphical path data, which visually

displays to the player a complete recording of a lap previously run by the user (col. 5,

lines 8-37).

It would have been obvious to one of ordinary skill in the art to combine the color changing graphical path markers of Yoshida with the current and previous lap time indicators of Mott as these are both means of visually providing information to a player during a video game play session. Further, Mott specifically discloses providing instruction to a player for parameters other than time in col. 5, lines 26-34, which teaches providing indicators for speed similar to the invention disclosed by Yoshida. To provide a visual indication of current lap time compared to a previous lap time is known in a racing-type video game system; providing an indication of a game parameter in the form of color changing path markers is also known in a racing-type video game system. To modify Yoshida's color changing markers to provide an indication of a currently elapsed time compared to a previously recorded elapsed time, instead of based upon current speed compared to a previously recorded ideal speed, would have required only routine skill in the art. Thus, all of the combined elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

The combination of Yoshida & Mott does not explicitly teach wherein the current location is after the starting line but prior to the finish line for a course being traversed in the current video game session.

Jen teaches the claimed "wherein the current location is after the starting line but prior to the finish line for a course being traversed in the current video game session". See Jen Col. 8. Lines 41-67, Col. 9. Lines 1-5 & 59-60. A user selects a recorded race

to compete with. The game console configures the game using the same settings

contained in the recorded race. The game displays both vehicles (i.e., the vehicle

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modification is viewed as a substitution of known elements (providing previous race

data indicating intermediate race timings) with the predictable results of providing

players more data so that they can beat a previous best time. Such modification is also

well within the level of ordinary skill in the art.

Regarding claims 3-7, 26 Mott discloses the ability to determine a character state

associated with a player character, including whether the character state is an off-track,

on-track, or crashed state (col. 7, lines 14-24). Thus, it would have been obvious to one

of ordinary skill in the art at the time of the invention to provide a visual indicator for any

particular character state that may be associated with a player character as Mott

teaches several examples of said character states able to be determined by the game.

Regarding claims 8-11,14, 15 Mott discloses the ability to display a visual,

graphical indicator for previous lap times in Fig. 4, including a champion best lap time

("Beat" 164), previous run lap time ("Last" **164**), and player best lap time (Fig. 5,

"Previous Best Lap" **194**). Therefore, it would have been obvious to display any previous run, including a worst time and an average time, as Mott discloses the ability to measure multiple player lap times.

Regarding claim 13,23, 29 Mott discloses storing the current graphical path data as "best time" run graphical path data if a total elapsed time of the current video game session is less than a total elapsed time associated with a previous "best time" run, wherein a new best time obtained by a player is stored and displayed as the ghost car path (col. 5, lines 35-37).

Regarding claim 16, Yoshida discloses the visual string of path markers are generated at substantially equal-distance from each other (Fig. 9, 10,14,15,19).

Regarding claims 17,18,27, 28 Yoshida discloses retrieving the path data associated with a previous run, i.e. the reference data, from a data cache (i.e. database) on a memory (i.e. ROM), in col. 8, lines 31-38.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMKAR A. DEODHAR whose telephone number is (571)272-1647. The examiner can normally be reached on M-F: 8AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OAD/

/Corbett Coburn/
Primary Examiner
AU 3714